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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 PETE N. CAMARGO,

12 Plaintiff,

13 vs.

14 JESSIE ROTNER, *et al.*,

15 Defendants.

Case No. 11cv2955 DMS (PCL)

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

16 Plaintiff Pete N. Camargo, a state prisoner proceeding *pro se*, filed an action pursuant to 42  
17 U.S.C. Section 1983 alleging violation of his constitutional rights. He claims two Brawley Police  
18 Department officers used excessive force when they arrested him. The case was referred to United  
19 States Magistrate Judge Peter C. Lewis for a report and recommendation in accordance with 28 U.S.C.  
20 Section 636(b)(1)(B) and Civil Local Rule 72.3.

21 Defendants Torray Scales and Jesse Rotner filed a motion pursuant to Federal Rule of Civil  
22 Procedure 41(b) arguing dismissal for failure to timely serve, or in the alternative, pursuant to Rule  
23 12(b)(5), arguing service of summons should be quashed for failure to properly serve. Plaintiff did  
24 not file an opposition. The Magistrate Judge issued a Report and Recommendation, recommending  
25 to deny Defendants' motion to dismiss, grant motion to quash service of process, and provide  
26 additional time for service. Plaintiff has not filed any objections.

27 A district judge "may accept, reject, or modify the recommended disposition" on a dispositive  
28 matter prepared by a magistrate judge proceeding without the consent of the parties for all purposes.

1 Fed. R. Civ. P. 72(b); *see* 28 U.S.C. § 636(b)(1). "The court shall make a *de novo* determination of  
2 those portions of the [report and recommendation] to which objection is made." 28 U.S.C.  
3 § 636(b)(1). When no objections are filed, the *de novo* review is waived. Section 636(b)(1) does not  
4 require review by the district court under a lesser standard. *Thomas v. Arn*, 474 U.S. 140, 149-50  
5 (1985). The "statute makes it clear that the district judge must review the magistrate judge's findings  
6 and recommendations *de novo if objection is made, but not otherwise.*" *United States v. Reyna-Tapia*,  
7 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (emphasis in the original); *see Schmidt v. Johnstone*,  
8 263 F. Supp. 2d 1219, 1225-26 & n.5 (D. Ariz. 2003).

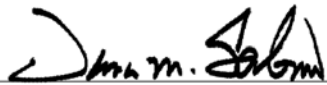
9 In the absence of objections, the court **ADOPTS** the Report and Recommendation.  
10 Accordingly, it is **ORDERED** as follows:

11 1. Defendants' motion to dismiss under Rule 41(b) is **DENIED** and their motion to under Rule  
12 12(b)(5) to quash service of process is **GRANTED**.

13 2. The United States Marshals Service shall comply with the provisions of the Report and  
14 Recommendation regarding service of process.

15 **IT IS SO ORDERED.**

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17 DATED: October 12, 2012

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20 HON. DANA M. SABRAW  
United States District Judge

21 cc: United States Marshals Service  
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